



Severance Tax Credit Study Group Meeting
Wednesday October 1, 1:00 pm
CML Conference Room

PARTICIPANTS

Jamee Allen, Freeport MacMoran	Susan Kirkpatrick, DOLA
Rich Atkinson, Rio Tinto	Stephen Loshbaugh, Meeker (by telephone)
Kevin Bommer, CML	Scott Olene, DOLA
Mike Braaten, City of Rifle	Dianna Orf, CMA
Steve Colby, DOLA	Ken Parsons, CCI/Rio Blanco County
Stan Dempsey, Colorado Petroleum Assoc.	Linda Rice, DOLA
Aron Diaz, AGNC	Keela Steele Riker, DOLA
Bruce Eisenhauer, DOLA	Cynthia Thayer, DOLA
Stephen Flaherty, NBL	Heidi Van Huysen, DNR
Tony Hernandez, DLG	Garin Vorthmann, COGA
Doug Houston, GK Baum	Kirk Weber, CDE

Introductory Remarks:

Susan Kirkpatrick called the meeting to order at 1:00 pm. Introductions were made all around. Thanks were expressed to CML for hosting the meeting today. Director Kirkpatrick recapped the study group's progress so far: a variety of perspectives from both industry and local governments have been shared and discussed. Today we look at and discuss problems identified with the current statute, and provide input (but not word-smithing) on possible remedies to those problems. Given time, the group will review other reform options. Finally, the next meeting will be organized and the meeting will definitely adjourn.

Review of Modernization Options for Severance Tax Credit:

Nine Problems (please reference handout, "Modernization of Severance Tax Credit"):

1. Confusing language on timing and amounts of new and increased production prevents use of the credit. Industry should be encouraged to work with the community. The barrier to use of the credit is generally confined to the beginning of the project. Comments:
 - Prepay in a declining period does not make sense
 - Protection of pool—anticipated increase in severance
 - Different impact for increasing or declining impact
 - Need flexibility to timing of investments
 - Use of credit needs to be tied to impacts
 - Policy changes need to be more specific, whereas statutory language is best left more broad to ensure flexibility
 - External focus can create volatility that is unable to predict

- Distinguish grant program from tax credit tool
 - In this context, corporations can provide leadership to communities. Having the tax credit tool provides financial leverage.
 - Severance is not the only way to address impacts or form cooperative partnerships.
2. Unit of local government language is confusing. Recommendations include repealing conflicting language and replace with consistent terminology to reference local governments. Also suggested is to not include references to employee residence report.
 3. Department of Revenue is not currently a formal party to the review of a contribution agreement. Revenue should have a formal, well-clarified role in order to allow confidentiality with tracking system available to involved and interested parties only.
 4. No verification of contribution amounts and values after the fact. Follow up mechanism needs to be created that includes Department of Revenue verification.
 5. Extra definition of mineral production not necessary. Language needs paring down.
 6. Disorganized description of contribution for credit agreements creates confusion and discourages use of the tax credit. Components of contribution agreement need to be clarified.
 7. Lack of clarity on who in industry can use the tax credit. This is a significant problem. Remove ambiguous language. Direct Distribution will be impacted.
 8. Use of tax credit for 100% of the liability with back-fill. Probably most vital. Puts DNR at some risk in terms of Trust Fund repayment.
 9. Review companion corporate tax credit for impact assistance contributions that was established in 1980.

Review of Tax Credit Reform Options:

Doug Houston, GK Baum & Associates, shared some observations from the bond perspective:

- Spread or divert risk of local governments from incurring debt.
- Inherently flawed.
- Bond purchaser of last resort intended by statute.
- Provisions are all pre-TABOR.
- No history to consult for reference due to absence of use.
- Volatility of severance revenue is a reality.
- Taxpayers (energy companies) would probably prefer to use tax credit rather than show debt on their balance sheets.
- Bonding more complex as more energy companies enter the picture and are structurally more complex.

Scott Olene of DOLA added that the existing bonding language is incoherent. TABOR also represents a major barrier.

Reform options may include loans instead, which would require DOLA to have broader authority. Severance tax dollars, by their very nature, ebb and flow with the energy tide. Water and sewer loans are perhaps a good model on which to build a different tool. Water and sewer loans are low risk to lenders, (approximately one default in 30,000) and

are generally TABOR-friendly. Tap revenues are generally pledged as repayment. One drawback noted is that most entities prefer a grant to a loan. CDBG funds are another option. Other states use CDBG with leverage at 5:1 on loan. Severance, perhaps, could be used the same way to keep buckets full.

More deliberation and thought are needed. Please contact Tony Hernandez with questions or comments, 303.866.4988 or tony.hernandez@state.co.us.

Looking Ahead:

Our next meeting is not until December 9. The gap between meetings was set up intentionally to give the study group time to consider the matter of the severance tax credit. The hope is that a consensus among participants will be reached on how to approach the legislature. As we are not a voting body, if consensus is not reached, the group will present the predominant viewpoints to the legislature in the form of a pros and cons report.

The next meeting is very important, with the goal of drafting a proposal for review and recommendations.

Meeting adjourned at 4:00 pm

**Next meeting: December 9
1:00 – 4:00 pm
At CML**

Minutes taken by Keela Steele Riker